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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,844	03/30/2001	Sadayuki Iwai	205379US0	7041
22850	7590	10/17/2003	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			FERGUSON, LAWRENCE D	
		ART UNIT	PAPER NUMBER	
		1774	18	
DATE MAILED: 10/17/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/820,844	IWAI, SADAYUKI
	Examiner Lawrence D Ferguson	Art Unit 1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 February 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-52,54-57,59-63,65-68,70-76,78-81,83-87,89-92 and 94-98 is/are pending in the application.
- 4a) Of the above claim(s) 1-48,97 and 98 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 49-52,54-57,59-63,65-68,70-76,78-81,83-87,89-92 and 94-96 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>15</u> | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the amendment mailed July 23, 2003.

Claims 1-52, 54-57, 59-63, 65-68, 70-76, 78-81, 83-87, 89-92 and 94-98 pending with claims 1-48 and 97-98 withdrawn from consideration.

### ***Claim Rejections – 35 USC § 103(a)***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 49-52, 54-57, 59-63, 65-68, 70-76, 78-81, 83-87, 89-92 and 94-96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. (U.S. 5,978,638) for reasons previously stated in the Office Action submitted on April 23, 2003.

### ***Response to Arguments***

4. Arguments made in regards to rejection made under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. (U.S. 5,978,638) have been considered but are unpersuasive. Applicant argues Tanaka clearly fails to disclose an intermediate transfer

belt containing a first belt layer having a hardness ranging from 30 to 70°C as measured by the JIS A scale and a second belt layer having a thickness ranging from 30 to 1000 micrometers where the first belt layer is the elastic surface belt layer on the second belt layer which is a base layer. Examiner respectfully disagrees because Tanaka discloses the image forming apparatus comprising an elastic layer of rubber (column 5, lines 1-3) and polyurethane material (column 8, line 43 and column 11, line 15). The reference discloses an elastic layer having a JIS-A hardness of 85° or less and a second layer having a thickness of 200 micrometers or less (column 8, lines 7-15) and the first layer has a thickness between 300 micrometers and 3000 micrometers (column 8, lines 19-20). Applicant argues the orientation of the elastic layer to the covering layer in Tanaka is not the same as the instantly claimed invention, Figure 5. According to Figure 5 of the instant application, the elastic layer (101) is on the outside of the second belt layer (102). Similarly, according to Figure 1 of Tanaka, the elastic layer (30) is on the outside of the second belt layer (31). Therefore, based on Figure 5 of the instantly claimed invention and Figure 1 of Tanaka, the claimed invention has a structure that is the same to the structure of Figure 1 taught by Tanaka et al.

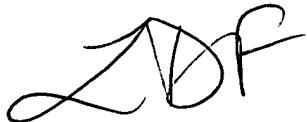
### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is (703) 305-9978. The examiner can normally be reached on Monday through Friday 8:30 AM – 4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the

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examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. Please allow the examiner twenty-four hours to return your call.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.



Lawrence D. Ferguson  
Examiner  
Art Unit 1774

CYNTHIA H. KELLY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

